THE HON'BLE MR. JUSTICE B. SUDERSHAN REDDY

AND

THE HON'BLE MR. JUSTICE S. ANANDA REDDY

WRIT PETITION No.25477 OF 2005

DATED: 30-11-2005

Between:

Sri Lakshminarayana Rice Mill,

Venkatapuram, Eluru,

Rep. by its Proprietor, G. Satyanarayana,

S/o. Gurunadham, aged 55 years,

R/o. Powerpet, Eluru, West Godavari District.

.. Petitioner

AND

The Commercial Tax Officer,

Eluru Circle, Ushabala Complex,

Narasimharaopeta, Eluru & 2 others.

.. Respondents

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THE HON'BLE MR. JUSTICE S. ANANDA REDDY

WRIT PETITION No.25477 OF 2005

ORDER: (Per Hon'ble Mr. Justice S. Ananda Reddy)

Heard the learned counsel for the petitioner as well as the learned Special Standing Counsel for Commercial Taxes, and at their request, the matter is taken up for final disposal at the stage of admission.

Rule nisi.

This writ petition is filed by the petitioner aggrieved by the order passed by the 2nd respondent in refusing to grant stay pending disposal of the appeal before the Sales Tax Appellate Tribunal. It is stated that in the assessment proceedings though no separate order was passed under Section 30(B)(2) of the Andhra Pradesh General Sales Tax Act, 1957 (for short 'the Act') forfeiting the alleged excess collection of tax amount, but, however, the said assessment order was revised by the revising authority and in the process, passed an order forfeiting the alleged excess tax amount collected by the petitioner, which is subject matter of the appeal before the Sales Tax Appellate Tribunal. Pending disposal of the appeal, the petitioner approached the 2nd respondent seeking stay of collection of the amount, which was ordered to be forfeited. It is stated that the 2nd respondent without applying his mind passed the order rejecting stay. Hence, the present writ petition.

Heard both sides and considered the material on record.

Having regard to the facts of the case, as it is not disputed that the petitioner has already paid 50% of the disputed amount, this Court is of the opinion that it would be proper and appropriate to grant stay of the outstanding balance amount pending disposal of the appeal before the Tribunal.

The Writ Petition is accordingly allowed, setting aside the impugned order, dated 07-10-2004, and there shall be stay of the outstanding balance amount pending disposal of the appeal before the Tribunal. No order as to costs.

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B. SUDERSHAN REDDY, J

Date:30-11-2005

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S. ANANDA REDDY, J

NOTE:

Furnish C.C. of the order by 01-12-2005.

(**B/O**)

PV